

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

FILED  
U.S. DISTRICT COURT  
INDIANAPOLIS DIVISION  
12 OCT 23 PM 3:22  
SOUTHERN DISTRICT  
OF INDIANA  
LAUREL A. BRIGGS

JOSELITO ELASIGUE,

Plaintiff,

v.

GC SERVICES, LP

Defendant.

CAUSE NO.

**1 : 12 -cv- 1549 SEB -DKL**

Jury Demanded

**COMPLAINT**

Plaintiff, Joselito Elasiqgue, by counsel, hereby brings this action for violation of the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et. seq. ("FDCPA"), and to recover damages for the alleged conduct, and in support thereof, says and alleges:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction pursuant to § 1692k(d) of the FDCPA, 28 U.S.C. § 1331 and 28 USC § 1367.

2. Venue is proper in this District because: a) the acts and transactions occurred here; b) Plaintiff resides here; and Defendant transacts business here.

**PARTIES**

3. Plaintiff, Joselito Elasiqgue ("Mr. Elasiqgue"), is a resident of the State of Indiana and resides in the Southern District of Indiana.

4. Defendant GC Services, LP ("GC") is a Texas Limited Partnership, with its principal place of business located in Houston, Texas. GC does business in the State

of Indiana and in the Southern District of Indiana. Specifically, GC engages in third party debt collection activity and attempts to collect debts from residents of Indiana and the Southern District of Indiana.

### **FACTUAL ALLEGATIONS**

5. GC is a collection agency that regularly collects debts from consumers on behalf of its clients.

6. GC is a debt collector as defined by 15 U.S.C. § 1692a(6) of FDCPA.

7. GC was retained to perform third party consumer debt collection work on behalf of its client, United Student Aid Funds ("USAF").

8. In its capacity as third party debt collector for USAF, GC attempted to collect the USAF debt from Mr. Elasiqgue.

9. On May 7, 2012, Mr. Elasiqgue filed a Chapter 13 Bankruptcy petition docketed in United States Bankruptcy Court for the Southern District of Indiana as Case No. 12-05363-AJM-13. A true and accurate copy of the cover sheet of Mr. Elasiqgue's Chapter 13 Bankruptcy petition is attached hereto as Exhibit "A".

10. Mr. Elasiqgue's USAF debt was incurred prior to his May 7, 2012 bankruptcy petition. USAF was listed as an unsecured creditor in Mr. Elasiqgue's Chapter 13 Bankruptcy Petition. A true and accurate copy of the relevant portion of Schedule "F" from Mr. Elasiqgue's Chapter 13 Bankruptcy petition is attached hereto as Exhibit "B".

11. USAF received notice of Mr. Elasiqgue's bankruptcy petition.

12. Despite Mr. Elasiqgue's bankruptcy filing, USAF assigned its account to GC for collection.

13. In late June or early July of 2012, Mr. Elasiqgue received a collection letter from GC. The letter was dated June 25, 2012, and demanded payment of Mr. Elasiqgue's USAF debt. A true and accurate copy of the GC collection letter dated June 25, 2012 is attached hereto as Exhibit "C".

**COUNT I**  
**Violation of 15 U.S.C. § 1692e(2)(A), § 1692e(5), and § 1692e(10)**  
**False or Misleading Representations**

14. Mr. Elasiqgue hereby adopts and re-alleges paragraphs one (1) through thirteen (13) of his complaint.

15. GC's collection letter dated June 25, 2012 was in blatant disregard and violation of the bankruptcy stay.

16. GC had no right to attempt to collect the USAF debt from Mr. Elasiqgue because of the operation of the bankruptcy stay.

17. GC's attempt to collect the USAF debt despite the operation of the bankruptcy stay constitutes a false representation of the amount, character, and legal status of the debt in violation of 15 U.S.C. § 1692e(2)(A) of the FDCPA.

18. By taking collection action on behalf of USAF against Mr. Elasiqgue despite the operation of the bankruptcy stay, GC took collection actions that it could not legally take in violation of 15 U.S.C. § 1692e(5) of the FDCPA.

19. By attempting to collect the USAF debt from Mr. Elasiqgue despite the operation of the bankruptcy stay, GC used false representations or deceptive means to collect or attempt to collect a debt in violation of 15 U.S.C. § 1692e(10) of the FDCPA.

20. GC's violations of 15 U.S.C. § 1692e(2)(a), § 1692e(5), and § 1692e(10) of the FDCPA render it liable for actual and statutory damages, costs, and reasonable attorneys fees, all pursuant to 15 U.S.C. § 1692k of FDCPA.

### REQUEST FOR RELIEF

Plaintiff, Joselito Elasigue, hereby requests that the Court:

1. Find that Defendant's debt collection actions violated FDCPA.
2. Enter Judgment in favor of Plaintiff, Joselito Elasigue, and against GC Services, LP, for all of his actual damages, FDCPA statutory damages, reasonable attorney's fees, and costs.
3. Grant such further just and proper relief.

### JURY DEMAND

Plaintiff, Joselito Elasigue, hereby demands a trial by jury.

Respectfully submitted,

NERZ WALTERMAN, P.C.

By: 

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